

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRUCE OAKELEY,

Plaintiff,

v.

No.

**NEW MEXICO DEPARTMENT OF
TRANSPORTATION,**

Defendant.

**NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

To: UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Defendant New Mexico Department of Transportation, by and through its counsel of record, Conklin, Woodcock & Ziegler, P.C., and pursuant to 28 U.S.C. §§ 1141 and 1446 and D.N.M.LR-Civ. 81.1, moves this Court to allow removal of the above-entitled action to the United States District Court for the District of New Mexico.

1. On December 17, 2019, a Complaint was filed in the Second Judicial District Court, County of Bernalillo, State of New Mexico. The case was docketed as Cause No. D-202-CV-2019-09743.

2. The Plaintiff is Bruce Oakeley.

3. The Complaint names the New Mexico Department of Transportation (“NMDOT”) as the Defendant. The NMDOT is a governmental entity of the State of New Mexico.

4. In accordance 28 U.S.C. § 1446 and D.N.M.LR-Civ. 81.1, attached hereto as Exhibit

A are copies of all pleadings served upon the Defendant, along with copies of all records filed with the Court in D-202-CV-2019-09743.

5. The Defendant was served with a copy of the Complaint and Summons on or about February 19, 2020. *See* Exhibit A, Return of Service. The New Mexico Attorney General has not been served.

6. The Complaint asserts claims under Federal law and New Mexico State law.

7. The Complaint is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. § 1331 and which is removable by Defendant under the provisions of 28 U.S.C. § 1441(a). Although the Defendant disputes the Plaintiff's claims, the Plaintiff asserts at Paragraphs 28 through 31 that Defendant has violated the Family and Medical Leave Act, 29 U.S.C. §§ 2601 et seq. *See* Exhibit A, Complaint, ¶¶ 28 through 31. Therefore, this Court has federal question original jurisdiction set forth in 28 U.S.C. § 1331.

8. Pursuant to 28 U.S.C. § 1367, this Court may exercise its supplemental jurisdiction over the claims alleged by Plaintiff under New Mexico State law as the claim forms a part of the same case or controversy as the claim arising under Federal law. *See* Exhibit A, Complaint, ¶¶ 22 through 27.

9. This Notice of Removal was filed with this Court within thirty (30) days after service of the Complaint, which is the first pleading naming this Defendant. *See* Exhibit A.

10. Defendant New Mexico Department of Transportation, upon filing of this Notice of Removal, gave written notice of the filing to Plaintiff as required by 28 U.S.C. § 1446(d), and filed a copy of this Notice of removal with the clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

11. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, the Defendant prays that the above-entitled action be removed from the Second Judicial District Court, County of Bernalillo, State of New Mexico, to this Court.

Respectfully submitted,

CONKLIN, WOODCOCK & ZIEGLER, P.C.

By /s/ Christa M. Hazlett
Christa M. Hazlett
320 Gold Avenue, SW
Albuquerque, NM 87102
(505) 224-9160
cmh@conklinfirm.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of March, 2020, I filed the foregoing electronically through the CM/ECF system, which caused all counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

Donald G. Gilpin
Christopher Machin
6100 Indian School Rd., N.E.
Suite 115
Albuquerque, NM 87110
ggd48@aol.com
cmachin@thegilpinlawfirm.com

/s/ Christa M. Hazlett
Christa M. Hazlett